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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Bryan Franz Dufner et al

Examiner: Lois L. Zheng

Serial No.: 10/075,561

Art Unit: 1793

Filed: February 13, 2002


Docket No.: C-2199Re

Title: ELECTROCHEMICAL CELL WITH A
POROUS SUPPORT PLATE

I hereby certify that this correspondence is being facsimile
transmitted to the United States Patent and Trademark Office
(Fax No. 571-273-8300) on February 1, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Barbara Cecere

RESPONSE

Sir:

1, 2. This paper is responsive to the Office Action dated October 15, 2007. A Petition for a One Month Extension of Time is provided herewith. Claims 1-14 and 17-19 are present for consideration. New claim 22 should be cancelled.

3, 4. Claims 1, 2, 8, 9, 13 and 14 are rejected as anticipated by Taniguchi et al (Taniguchi). The issues are set forth in the Response to Arguments section of the rejection, and this response will be presented in that order.

It is patently clear that Taniguchi does not teach increased capacitance; applicant's argument referred to specific process steps simply to prove that it is not inherent that a contact bi-layer adjacent the anode or cathode electrode will include "hydrophilic phase means for...increasing the capacitance of the cell". **"EXAMINER MUST PROVIDE RATIONALE OR EVIDENCE TENDING TO SHOW INHERENCY"** MPEP 2112 III De Graffenreid v. United States, 20 Ct. Cl. 458, 16 USPQ2d 1321 (Ct. Cl. 1990). MPEP 2181 I. *"Inherence, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient."* In re Roberston, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

In a means plus function format (35 USC 112-6) "without the recital of structure, material, or actions in support thereof,...such claims shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof." It is quite clear that, since there is no increased capacitance in Taniguchi, Taniguchi is not an equivalent thereof. *"It is elementary that to support an anticipation rejection, all elements of the claim must be found in the reference."* In re Royke, 490 F.2d 981, 180 USPQ